

STATE OF VERMONT
PUBLIC SERVICE BOARD

CPG #NM-1545

Application of Judith and Roy Lidie for a certificate)
of public good for an interconnected net-metered)
photovoltaic electrical power system)

Order entered: 9/13/2011

I. INTRODUCTION

This case involves an application filed by Judith and Roy Lidie ("Applicants"), on July 8, 2011,¹ requesting a certificate of public good ("CPG"), pursuant to 30 V.S.A. §§ 219a and 248 and Vermont Public Service Board ("Board") Rule 5.100, for a net metering system. The net metering system consists of a photovoltaic system.

Notice of the application has been sent to all parties as specified in the Board's Rule 5.100. The notice stated that any party wishing to submit comments or request a hearing in this matter needed to file comments with the Board within thirty (30) working days of the date that the notice of the application was sent.

On July 19, 2011, the Board received a letter from Kevin and Corrinne Keefe regarding the application. The Keefes state that the project will be highly visible and that the Applicants have not provided information on what measures have been taken to minimize the project's visible impact. The Keefes assert that absent mitigation the project will detract from the natural beauty of the area. The Keefes are also concerned about possible glare from the project, as discussed with the project installer, and whether the project will be removed upon obsolescence. Finally, the Keefes request that the Board conduct a site visit to the proposed installation site.

On August 22, 2011, the Board received a letter from the Applicants in response to the concerns raised by the Keefes. The Applicants assert that the project is supported by both State policy and Town plan, that neither the village of Bellows Falls nor the town of Rockingham have objected to the project, and that no other adjoining property owner objects to the project. The

1. An incomplete application was filed on June 30, 2011.

Applicants state that in an attempt to mitigate the Keefes' concerns regarding aesthetics, the Applicants have planted a row of trees along the entire westerly property line between the Applicants and the Keefes. Finally, the Applicants stipulate that, in the event that the technology is rendered obsolete that the project will be removed and disposed of properly.

No comments have been received from any other parties or interested persons.

The Board has reviewed the application and accompanying documents and agrees that, pursuant to 30 V.S.A. §§ 219a and 248 and the Board's Rule 5.100, a CPG should be issued without further investigation or hearing.

II. FINDINGS

Based upon the application and its accompanying documents, the Board makes the following findings in this matter.

1. The proposed net metering project will be on property owned by the Applicants and located at 194 Rockingham Street in Bellows Falls, Vermont. Application at Section 1.
2. The proposed net metering facility consists of a pole-mounted solar-tracking photovoltaic array installed on the Applicants' property. Application at Section 4.
3. The proposed project will occupy a space approximately 30-feet wide and nine- to eleven-feet high. The project will be visible from adjoining properties. Application at Section 8 and Attachments.
4. The Applicants have installed a row of trees (*arborvitae*) in order to screen views of the project from the property of Kevin and Corrinne Keefe. *See* letter from Judith and Roy Lidie to Susan Hudson, Clerk of the Board, dated August 19, 2011.
5. The proposed project consists of a photovoltaic electrical generation system with a system-rated output of 3.591 kW AC. The facility will be interconnected with the Green Mountain Power Corporation electrical distribution system. Application at Section 4 and attachment.
6. Applicants have certified that the project is in compliance with all of the provisions of Sections 3 and 8 of the application. Based on these submissions, we conclude that the project does not raise a significant issue with respect to the environmental criteria of 30 V.S.A. § 248. Application at Sections 3 and 8.

7. Applicants have certified compliance with the insurance requirements as set forth in Section 3 of the application. Application at Section 3.

III. DISCUSSION AND CONCLUSION

The Keefes' comments focus primarily on the aesthetic impacts of the project. The Keefes assert that the project will be visible from their property, and that they are concerned about potential glare from the project.

The Board's net-metering rule sets forth the following analytical process for determining whether a project will have an undue adverse impact on aesthetics and scenic or natural beauty:

5.108 Aesthetic Evaluation of Net Metered Projects

- (A) The Board has adopted the Vermont Environmental Board's Quechee analysis for guidance in assessing the aesthetic impacts of net metered projects, including wind turbines. In determining whether a project raises a significant issue with respect to aesthetic criteria contained in 30 V.S.A. 248(b)(5), the Board is guided by the two-part test outlined below:
1. First a determination must be made as to whether a project will have an adverse impact on aesthetics and the scenic and natural beauty. In order to find that it will have an adverse impact, a project must be out of character with its surroundings. Specific factors used in making this evaluation include the nature of the project's surroundings, the compatibility of the project's design with those surroundings, the suitability of the project's colors and materials with the immediate environment, the visibility of the project, and the impact of the project on open space.
 2. The next step in the two-part test, once a conclusion as to the adverse effect of the project has been reached, is to determine whether the adverse effect of the project is "undue." The adverse effect is considered undue when a positive finding is reached regarding any one of the following factors:
 - a. Does the project violate a clear, written community standard intended to preserve the aesthetics or scenic beauty of the area?
 - b. Have the applicants failed to take generally available mitigating steps which a reasonable person would take to improve the harmony of the project with its surroundings?
 - c. Does the project offend the sensibilities of the average person? Is it offensive or shocking because it is out of character with its surroundings or significantly diminishes the scenic qualities of the area?
 3. Analysis of whether a particular project will have an "undue" adverse effect on aesthetics and scenic or natural beauty is also significantly informed by the overall societal benefits of the project.

In addition to the Quechee analysis, the Board's consideration of aesthetics under Section 248 is "significantly informed by overall societal benefits of the project."²

The proposed project will occupy a space approximately 30-feet wide and nine- to eleven-feet high, which is small in comparison to the size of the Applicants' house and that of other houses in the vicinity. Therefore, in terms of scale, the project will not be out of character with its surroundings. However, the Keefes have asserted that they will experience glare from the project at certain times, an assertion that the Applicants have not disputed. If the Keefes were to experience glare from the project, this might constitute an adverse aesthetic impact under the first step of the Quechee analysis. A finding of adverse impact under the first step of Quechee necessitates an evaluation under the second step. No party has argued that the project would violate a clear, written community standard. The Applicants have installed a row of trees in an attempt to mitigate any adverse aesthetic impacts; therefore they have taken generally available mitigating steps to improve the harmony of the project with its surroundings. Finally, due to the project's limited size, and the fact that only one adjoining landowner has filed comments, we find that the project will not offend the sensibilities of the average person. Therefore, under the second step of the Quechee analysis, we conclude that any adverse aesthetic impacts will not be undue.

In Docket No. 6181,³ the Board developed a net metering program in accordance with the statutory requirements of 30 V.S.A. § 219a. This program was further refined by the Board with the adoption of Board Rule 5.100 on March 1, 2001. The goals of the Order and Rule are to encourage private investment in renewable energy resources, stimulate the economic growth of the state and enhance the continued diversification of energy sources used in Vermont. The standards and requirements adopted in the Order and Rule have been determined by the Board to protect public safety and system reliability.

Based upon the findings and evidence, the proposed net metering project will be in compliance with the requirements of the Board's Order in Docket No. 6181 and Rule 5.100, the application does not raise a significant issue with respect to the substantive criteria of 30 V.S.A. § 248, and the proposed project will promote the general good of the state.

2. *In Re: Northern Loop Project*, Docket 6792, Order of 7/17/03 at 28 ("Northern Loop").

3. *Investigation into the Use of A Net Metering System for the Purchase and Sale of Electricity from Small Electrical Generating Systems to and from Electric Companies*, Docket No. 6181, April 21, 1999.

IV. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the proposed photovoltaic net metering system, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont pursuant to 30 V.S.A. § 219a, and a certificate of public good to that effect shall be issued in this matter, pursuant to 30 V.S.A. §§ 219a and 248.

DATED at Montpelier, Vermont, this 13th day of September, 2011.

<u>s/ James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/ David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/ John D. Burke</u>)	

OFFICE OF THE CLERK

Filed: September 13, 2011

Attest: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.